

United States District Court
Southern District of Texas
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

OCT 06 1998

Michael N. Milly
Clerk of Court

EDWARD ALCALA, et al.,

§

CIVIL ACTION NO. B-96-203

Plaintiffs,

§

vs.

§

ALEX PEREZ, in his official capacity as
Sheriff of Cameron County, Texas and
Cameron County, Texas,

§

PLAINTIFFS' OPPOSITION
TO DEFENDANT'S MOTION
TO DISMISS AS TO CERTAIN
PLAINTIFFS

Defendants.

§

Defendant having filed a motion to dismiss the claims of certain plaintiffs alleging that said plaintiffs had failed to answer defendant's interrogatories, plaintiffs hereby oppose as to certain of these plaintiffs because they have indeed answered defendant's interrogatories and in support of said opposition would respectfully show the following:

1. Plaintiffs informed the Court at the hearing on June 30, 1998 that it would attempt to answer 277 sets of interrogatories by August 30, 1998, although plaintiffs contended that most of the information requested in the defendant's interrogatories and requests for production of documents was irrelevant or impossible to determine. Contrary to defendant's assertion that plaintiffs waived objections to the interrogatories, plaintiffs' counsel had been trying to negotiate for a year with defense counsel to fashion information that would be useful and help resolve the case rather than create busy work. The Magistrate ruled on June 30th that plaintiffs had not waived any objection to the interrogatories and requests for

production, but still required the plaintiffs to answer the interrogatories and requests. By August 30, 1998, approximately 208 consent plaintiffs had answered the interrogatories and they had been presented to defendant's counsel. Because plaintiffs' counsel knew that several plaintiffs had been found and were in the process of answering the interrogatories, plaintiffs' counsel requested permission from defense counsel to extend the time until September 4, 1998 to submit to defense counsel additional interrogatory answers.

2. Defendant's list of persons who have allegedly failed to answer the interrogatories contains two persons who submitted their interrogatory answers prior to the final deadline, i.e., Nora Hilda Esparza Villarreal (submitted 09/01/98) and Jose Alejandro Garcia (submitted 08/15/98). They were earlier listed under the name Nora Esparza and Alex Garcia.

3. In addition, because of delays in finding Juan Jose Canul (09/11/98), Ignacio Casanova (09/24/98), Jorge Castorena (09/28/98), Santos Gomez (09/11/98), Jose Alejandro Longoria, Jr. (09/18/98), Jaime Munivez (09/08/98), Ricardo David Perez (09/14/98), and Raul E. Rodriguez (09/08/98), their interrogatories were not presented to defense counsel until later in September.

4. Plaintiffs submit that as to these ten consent plaintiffs, there is no just reason for striking them from the case because two of the ten answered within the time agreed to by the defense counsel and allowing the remaining eight plaintiffs to submit their interrogatories to defense counsel will in no way prejudice the defendants or the timing of the case. As to the

remaining 59 consent plaintiffs, for reasons known only to them or they were not found, they have not submitted answers to interrogatories.

WHEREFORE, as to consent plaintiffs Juan Jose Canul, Jr., Ignacio Casonava, Jorge Castorena, Nora Hilda Esparza Villarreal, Jose Alejandro Garcia, Santos Gomez, Jose Alejandro Longoria, Jr., Jaime Munivez, Ricardo David Perez, and Raul E. Rodriguez, plaintiffs hereby oppose defendant's motion to dismiss plaintiffs and would request that the Court not enter an order resulting in the death penalty for these plaintiffs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, GEORGE P. POWELL, do hereby certify that on this the 2nd^{5th} day of October, 1998, I caused to be mailed a true and correct copy of Plaintiffs' Opposition to Defendant's Motion to Dismiss As to Certain Plaintiffs to defendants' attorney of record:

Mr. Richard O. Burst
Legal Division Commissioners' Court
964 E. Harrison St.
Brownsville, TX 78520

George P. Powell
GEORGE P. POWELL